

THE HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TATIANA WESTBROOK, an individual;
JAMES WESTBROOK, an individual; HALO
BEAUTY PARTNERS, LLC, a Nevada Limited
Liability Company,

Plaintiffs.

V.

KATIE JOY PAULSON, an individual;
WITHOUT A CRYSTAL BALL, LLC, a
Minnesota Limited Liability Company; and
DOES 1 through 100, inclusive,

Defendants.

NO. 2:20-cv-01606-BJR

**PRAECLP TO PLAINTIFFS'
OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS (DKT. NO. 27)**

Pursuant to LCR 7(m), Plaintiffs submit this praecipe to add an additional document in support of their previous filing, Plaintiffs' Opposition to Defendants' Motion to Dismiss, Docket Number 27. Specifically, Plaintiffs seek to add into the record a declaration showing additional factual support for Plaintiffs' argument in Docket 27 at pages 14–15 that Defendants derive income from Washington through publication of defamatory content.

PRAECIPE - 1
(2:20-CV-01606-BJR)

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Such information was not included with the previous filing¹ because it only came to undersigned counsel's attention after the filing of Plaintiffs' Opposition. On December 29, 2020, Defendants broadcasted a live stream video in which they discussed this lawsuit. (Saltz Decl. ¶¶ 5-7.) The members-only mode was on for the live chat, in which a person using an account believed to belong to Lori Ann Barnhart participated and sent paid super chats to Defendants. (*Id.*) This video definitively showed that the person known as Lori Ann Barnhart, whose online presence shows she lives in Washington (*See* Fulmer Decl., Dkt. no. 29), was a paid member of Defendants' channels as of the date of the video. (*Id.*) This revelation prompted an in-depth investigation into the approximately 1,600 videos that currently are viewable on Defendants' channels to determine if Ms. Barnhart's account was a member before the lawsuit was filed. (*Id.* at ¶¶ 14-16.) The reason this evidence was not discovered earlier was that undersigned counsel did not have any knowledge that Lori Ann existed prior to the filing of this lawsuit or her connection to Washington, and the videos that establish her membership had innocuous titles unrelated to Plaintiffs. (*Id.* at ¶ 16.) Defendants have so many YouTube videos, many of which are more than an hour long, that it would take years to view them all in their entirety. (*Id.*) The knowledge that Lori Ann is a member of Defendants' YouTube channels only came to undersigned counsel's attention through Defendants' broadcasting of the video about this lawsuit on December 29, 2020 with the members' only chat turned on. (*Id.*)

Undersigned counsel certify that they met and conferred with Defendants' counsel on December 30, 2020 and informed him of Plaintiffs' intent to submit this praecipe with additional documents in support of Plaintiffs' Opposition to Defendants' Motion to Dismiss. Undersigned

¹ See LCR 7(m) ("If the party seeks to add an additional document in support of a previous filing, the praecipe must set forth why the document was not included with the original filing and reference the original filing by docket number.").

1 counsel also informed Defendants' counsel that Plaintiffs would stipulate to allow Defendants
2 additional time to submit their Reply to avoid any potential prejudice to Defendants by this
3 addition to the record.

4 Dated: January 4, 2021

5 CARROLL, BIDDLE, & BILANKO, PLLC

6
7 By: /s/ Jeffrey E. Bilanko
Jeffrey E. Bilanko, WSBA 38829

8
9 /s/ Susan K. Kaplan
Susan K. Kaplan, WSBA 40985

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18 By: /s/ Michael J. Saltz
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1
2 **CERTIFICATE OF SERVICE**
3

4 The undersigned declares under penalty of perjury under the laws of the United States
5 that on this day a true and accurate copy of the document to which this declaration is affixed was
6 filed with the above-entitled Court through CM/ECF and was sent as indicated below on this
7 day, to:

8 **Attorneys for Defendants:**

9 Michael P. Brown
10 Gordon Tilden Thomas & Cordell LLP
11 600 University Street, Suite 2915
12 Seattle, WA 98101
13 Tel.: (206) 467-6477

- 14 U.S. Mail Postage Prepaid
15 CM/ECF
16 Hand Delivery
17 Email: mbrown@gordontilden.com

18 cc: cswanson@gordontilden.com

19 DATED this 4th day of January 2021.

20 _____
21 */s/ Jason Bilanko*
22 _____
23 Jason Bilanko, Paralegal